

Application No.: 10/037,782
Amendment dated: December 16, 2004
Reply to Office Action of: June 22, 2004

REMARKS

This amendment is responsive to the Office Action dated July 30, 2004. Claims in this case remain are claims 26-45 that were previously allowed but now stand rejected.

Reconsideration is respectfully requested in view of the accompanying terminal disclaimer and the following comments.

Generally, the rejections of 35 U.S.C. §103 are based on the references DeBruyn, Szlam, and Entenmann. A few general comments are deemed appropriate with respect to the combination.

DeBruyn discloses an interface between callers and central stations where lottery numbers are chosen and entered in the form of impulses from the “selector device” (page 4, lines, 1-11). It is noteworthy that in the single figure, the “central computer 4” is directly part of the central station. That is, note that a local telephone exchange 2 couples the telephone set 1 to the main exchange 3 and further the PBX 7 and so on.

If the structure shown in the figure, including the “central computer 4” was not part of the integrated central station, another local telephone exchange would be required. However, in any event, the essence of the reference system is in avoiding the use of personnel (page 2, line 20). That is, DeBruyn avoids the need for operators or operator terminals. Accordingly, the reference teaches away from the claims herein, all of which involve “at least one live operator station.”

The Szlam reference discloses operator terminals, to which calls are transferred along with stored data (column 5, lines 17-24). Additionally, the Szlam patent accommodates both audio and DTMF signals (column 13, lines 61-66 and column 17, lines, 33-40). However, in the

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Szlam system, the audio and DTMF signals are not the result of selective prompting. That is, the system simply accommodates either type of signal as by limited voice recognition (column 13, line 63) or by a recorder with both analog and digital recording capability (column 17, line 34). Thus, the different types of signals are not selectively received or identified, but rather are merely decoded to a similar form (column 13, line 65) or recorded in either form (column 17, line 34).

Applicant contends that the combination of the references DeBruyn and Szlam is inappropriate. Also significant is the fact that neither reference discloses certain elements of the claims here. Specifically, neither reference discloses “prompting for selective actuation by callers of said voice communication means and said digital input means.....” Furthermore, neither reference discloses selectively receiving or identifying the recited signals as produced in response to cues. Specifically, DeBruyn operates strictly on the basis of digital input and Szlam operates on the basis of equating digital and analog signals. Accordingly, the references, albeit incompatible, are also distinct from the independent claims because they do not teach the combination defined.

In Szlam there is no teaching of “testing” and it is recognized that DeBruyn checks on the number of permitted stakes per week (page 4, line 1) and for a prior entry during a current lotto game (page 5, line 14). However, distinctly, the operation of Applicant’s system, as defined by the claims, involves a test to determine transfer to a live operator (see specification page 11, line 31). Thus, Applicant’s system, is clearly distinct from, Szlam, DeBruyn, or any legitimate combination of the two references.

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Although the Entenmann patent has been applied with respect to certain dependent claims, it is respectfully submitted that the distinctions of the independent claims 26 and 31 as treated above carry the dependent claims with them.


As indicated above, a terminal disclaimer has been filed to overcome the rejection based on double patenting. Reconsideration is respectfully requested.

Respectfully, Applicant urges the Examiner to reconsider her rejections in view of the above arguments.

Favorable consideration and allowance of the claims pending here is respectfully requested.

Respectfully submitted,

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